

### **REMARKS**

Upon entry of the present amendment, claims 1, 3-5, 15-16, and 18-26 will be pending in this patent application.

Claim 1 has been amended to incorporate the subject matter of claim 6 and 14 and to place the present application in condition for allowance. No new matter is added. Applicants respectfully submit that because the amendment to claim 1 merely incorporates subject matter that was already searched, the amendments to the claims do not necessitate any additional searches by the Office and should be entered. Claims 15 and 16 have been amended, and claims 6-7 and 9-14 have been cancelled without prejudice or disclaimer, in view of the amendment to claim 1.

#### ***Claim Rejections***

Claims 1, 3, 4, 5, 6, 7, 11, 12, 13, and 14 have been rejected under 35 U.S.C. § 103(a) for alleged obviousness over U.S. Pat. No. 4,800,903 to Ray, et al. (“the Ray patent”) in view of U.S. Pat. No. 4,924,883 to Perfetti, et al. (“the Perfetti patent”).

Claim 16 has been rejected under 35 U.S.C. § 103(a) for alleged obviousness over the Ray patent in view of the Perfetti patent in further view “of the [applicant’s] prior art”.

Claim 15 has been rejected under 35 U.S.C. § 103(a) for alleged obviousness over the Ray patent in view of the Perfetti patent in further view of U.S. Pat. No. 2,818,868 to Rivers, Jr. (“the Rivers patent”).

Applicants respectfully submit that none of the posited combinations of references teach or suggest any claimed invention. In particular, none of the references teach or suggest a container that includes a shaped mass comprising a mixture of sintered fibrous and/or filamentous polyethylene and non-fibrous polyethylene, as recited in the amended claims.

The Office concedes that “[the] Ray [patent] does not disclose that any sintering of the filaments is undertaken” (*see* 9/5/07 Office Action at page 3). Furthermore, the Ray patent does not teach or suggest a nicotine-delivery container that includes a shaped mass comprising a mixture of sintered fibrous and/or filamentous as well as non-fibrous polyethylene. Indeed, the Ray patent actually *teaches away* from the use of “crystalline” and “amorphous” polyethylene, as distinguished from “high density polyethylene”, which may in turn comprise “a mass of filaments” (*see* Ray patent at col. 5, lines 50-69). To the extent that “crystalline” or “amorphous” polyethylene can be interpreted as comprising non-fibrous polyethylene (and Applicants do not necessarily concede that such interpretation is correct), the Ray patent teaches away from *any* use of these forms of polyethylene, much less a mixture of “crystalline” or “amorphous” polyethylene and filamentous or fibrous polyethylene. Therefore, there is no teaching or suggestion in the Ray patent to mix filamentous (or fibrous) polyethylene with non-fibrous polyethylene, or to sinter such mixture.

The Perfetti patent does not remedy the shortcomings of the Ray patent. The Perfetti patent is directed to a smoking article comprising a tobacco-containing fuel element, and does not disclose or suggest a shaped mass of polyethylene, much less a sintered mixture of fibrous/filamentous and non-fibrous polyethylene.

Claims 15 and 16 include all of the elements of claim 1. Neither the Applicants’ prior art nor the Rivers patent remedy the shortcomings of the Ray patent and the Perfetti patent as discussed above. For example, the Rivers patent does not teach or suggest a shaped mass of polyethylene comprising a mixture of fibrous/filamentous and non-fibrous polyethylene, whether sintered or unsintered.

Therefore, none of the posited combinations of references teach or suggest any claimed invention. Accordingly, a *prima facie* case of obviousness has not been presented, and the rejection of the pending claims under § 103(a) should be withdrawn. *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974) (all claim limitations must be taught or suggested by the prior art) (cited by M.P.E.P. § 2143.03).

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**PATENT**

***Conclusion***

The Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record, and respectfully submit that this application is now in condition for allowance. Applicants respectfully request entry of the amendments to the claims and an indication of allowability and a Notice of Allowance of all pending claims.

If the Examiner believes a telephone conference would expedite prosecution of this application, please contact the undersigned at 215-568-3100.

Respectfully Submitted,

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/S. Maurice Valla/  
S. Maurice Valla  
Registration No. 43,966

Woodcock Washburn LLP  
Cira Centre  
2929 Arch Street, 12th Floor  
Philadelphia, PA 19104-2891  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439